

SENATE BILL REPORT

ESHB 1012

As Reported By Senate Committee On:
Financial Institutions, Housing & Consumer Protection, March 31, 2005
Ways & Means, April 4, 2005

Title: An act relating to computer spyware.

Brief Description: Regulating computer spyware.

Sponsors: House Committee on Technology, Energy & Communications (originally sponsored by Representatives Morris, Hudgins, Simpson, Nixon, Anderson, Morrell, Linville, B. Sullivan and Ormsby).

Brief History: Passed House: 3/09/05, 96-0.

Committee Activity: Financial Institutions, Housing & Consumer Protection: 3/17/05, 3/31/05[DP-WM].

Ways & Means: 4/4/05 [DP].

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & CONSUMER PROTECTION

Majority Report: Do pass and be referred to Committee on Ways & Means.

Signed by Senators Fairley, Chair; Berkey, Vice Chair; Benson, Brandland, Delvin, Franklin, Keiser, Prentice, Schmidt and Spanel.

Staff: Joanne Conrad (786-7472)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass.

Signed by Senators Prentice, Chair; Fraser, Vice Chair; Zarelli, Ranking Minority Member; Kohl-Welles, Pflug, Pridemore, Rasmussen, Roach and Schoesler.

Staff: Steve Jones (786-7346)

Background: Computer "spyware" is used to hijack computer settings, install unwanted programs, prevent the installation of security programs, and by keystroke-logging, can also be used to steal confidential personal and financial information. The growing use of spyware threatens the integrity of e-business transactions, and facilitates identity theft crimes.

Summary of Bill: It is unlawful to transmit spyware, deceptively modify another person's computer settings, and collect personal information by deceptive keystroke-logging. Technical details of many types of spyware incursions are specified and described.

The Attorney General or certain classes of business victims of spyware attacks may bring actions for injunction and damages up to \$100,000 per violation or actual damages, whichever is greater.

A court may increase damages up to three times the amount of the award, but not to exceed two million dollars. Remedies under the Consumer Protection Act are not affected.

The act preempts local government regulation, and supercedes notices to consumers from software providers.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Spyware has become a huge problem for consumers and the software industry, with the Seattle-Tacoma area one of the worst for internet crime in the U.S.. This bill would enable appropriate legal action.

Testimony Against: None.

Who Testified: PRO: Representative Morris, prime sponsor; Hunter Goodman, Steve Larsen, Attorney General's Office; Scott Hazelgrove, Microsoft; Nancy Atwood, AEA.